

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

SUSAN A. ZIMMERMAN,

Plaintiff,

v.

COUNTY OF MONROE, et al.,

Defendants.

DECISION & ORDER

22-CV-6500DGL

On February 23, 2024, plaintiff Susan A. Zimmerman filed a motion seeking an order unsealing various documents that counsel for plaintiff and defendants believe have been sealed by operation of New York Criminal Procedure Law § 160.50. (*See* Docket # 23-1 at 2, ¶¶ 4, 5; Docket # 25 at 2, ¶ 4). On March 25, 2024, defendants filed a declaration clarifying certain represented matters but did not otherwise oppose plaintiff’s motion. (Docket # 25).

The Court finds that the pending motion is premature as plaintiff has not yet attempted to obtain the desired documents from the relevant entity or entities either by directly requesting the documents or by serving a subpoena. *See Thomas v. Mason*, 2018 WL 11247055, *2 (N.D.N.Y. 2018) (“[t]he statute itself allows [p]laintiff to obtain the records, as well as to designate a third-party to obtain those records[;] . . . [i]n the event, however, that the relevant records are not provided, the proper course would be to subpoena those records as part of this civil action”). Indeed, it is not apparent to the Court that production of the requested records should require a court order to unseal. *See* N.Y. Crim. Proc. Law § 160.50(1)(d) (“such records shall be made available to the person accused or to such person’s designated agent”). Therefore, it is hereby

ORDERED, that plaintiff's motion to unseal (**Docket # 23**) is **DENIED** without prejudice. Plaintiff should first attempt to obtain the records by serving the executed releases and/or subpoenas appended to her motion papers on the relevant entity or entities. It is further

ORDERED, that oral argument scheduled for April 23, 2024, is **canceled**.

IT IS SO ORDERED.

s/Marian W. Payson
MARIAN W. PAYSON
United States Magistrate Judge

Dated: Rochester, New York
April 12, 2024